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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/728,564	12/05/2003	Steve D. Huseth	P03.0493 (H0006281-0760)	8890

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EXAMINER	
ZIMMERMAN, BRIAN A	

ART UNIT	PAPER NUMBER
2612	

MAIL DATE	DELIVERY MODE
08/24/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/728,564	HUSETH ET AL.	
	Examiner	Art Unit	
	Brian A. Zimmerman	2612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 July 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-7,9-16,18-21 and 23-53* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-7,9-16,18-21 and 23-53* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Status of Application

In response to the applicant's amendment received on 7/13/07. The examiner has considered the new presentation of claims and applicant arguments in view of the disclosure and the present state of the prior art. And it is the examiner's position that claims 1-7,9-16,18-21,23-53 are unpatentable for the reasons set forth in this office action:

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 102

1. Claims 26-34 are rejected under 35 U.S.C. 102(e) as being anticipated by Berardi (2003/0167207.

Berardi shows a method for providing access to a financial transaction, where the system includes two versions of the transponder 102. The first embodiment of transponder 102 does not include a fingerprint reader (figure 2); this is interpreted as a badge. The second embodiment of transponder 102 includes a fingerprint reader (figure 9); this is interpreted as a keyfob. The figure 9 transponder sends the fob ID (stored in memory 214) with the fingerprint so both can be authenticated. When the data is read from the transponder, a comparison is made to authorize financial access; this meets the limitation of determining if the received code is authentic and providing access upon authentication. If the data is from a badge, the authorization step

compares account data (or the transponder ID), paragraph 59. If the data is from a keyfob the authorization step compares fingerprint data, paragraph 141. It is the examiner's position that in order to compare the received data from the figure 9 transponder with stored fingerprint data, a decision inherently is made that the data received includes fingerprint data. This meets the limitation of determining if the code is from a badge or keyfob.

Claim Rejections - 35 USC § 103

2. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berardi in view of Fitzgibbon.

Berardi shows a method for providing access to a financial transaction, where the system includes two versions of the transponder 102. The first embodiment of transponder 102 does not include a fingerprint reader (figure 2); this is interpreted as a badge. The second embodiment of transponder 102 includes a fingerprint reader (figure 9); this is interpreted as a keyfob. The figure 9 transponder sends the fob ID (stored in memory 214) with the fingerprint so both can be authenticated. When the data is read from the transponder, a comparison is made to authorize financial access; this meets the limitation of determining if the received code is authentic and providing access upon authentication. If the data is from a badge, the authorization step compares account data (or the transponder ID), paragraph 59. If the data is from a keyfob the authorization step compares fingerprint data, paragraph 141. It is the examiner's position that in order to compare the received data from the figure 9

transponder with stored fingerprint data, a decision inherently is made that the data received includes fingerprint data. This meets the limitation of determining if the code is from a badge or keyfob.

In an analogous art, Fitzgibbon teaches an access security system where a transmitter can send codes to a garage door for access authorization. The portable transmitter (authorization module) can additionally include a fingerprint reader to send information regarding the user's fingerprint, also for authorization. Fitzgibbon includes a processor (figure 4) in communication with the transmitters to process data received and make an authorization determination, see figure 8. Fitzgibbon is cited for teaching that in this type of system, the use of rolling codes can improve the security of the system. The fingerprints and rolling codes are separately checked against databases for authenticity. See figure 8.

Therefore it would have bee obvious to one of ordinary skill in the art at the time of the invention to have used the fingerprint and rolling code processing of Fitzgibbon in the fingerprint entry transponder embodiment of Berardi because adding rolling code authentication increases security in the system.

3. Claims 7,9-16,18-21,23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berardi and Fitzgibbon and Johnson.

Berardi shows a method for providing access to a financial transaction, where the system includes two versions of the transponder 102. The first embodiment of transponder 102 does not include a fingerprint reader (figure 2); this is interpreted as a

badge. The second embodiment of transponder 102 includes a fingerprint reader (figure 9); this is interpreted as a keyfob. The figure 9 transponder sends the fob ID (stored in memory 214) with the fingerprint so both can be authenticated. When the data is read from the transponder, a comparison is made to authorize financial access; this meets the limitation of determining if the received code is authentic and providing access upon authentication. If the data is from a badge, the authorization step compares account data (or the transponder ID), paragraph 59. If the data is from a keyfob the authorization step compares fingerprint data, paragraph 141. It is the examiner's position that in order to compare the received data from the figure 9 transponder with stored fingerprint data, a decision inherently is made that the data received includes fingerprint data. This meets the limitation of determining if the code is from a badge or keyfob.

In an analogous art, Fitzgibbon teaches an access security system where a transmitter can send codes to a garage door for access authorization. The portable transmitter (authorization module) can additionally include a fingerprint reader to send information regarding the user's fingerprint, also for authorization. Fitzgibbon includes a processor (figure 4) in communication with the transmitters to process data received and make an authorization determination, see figure 8. Fitzgibbon is cited for teaching that in this type of system, the use of rolling codes can improve the security of the system. The fingerprints and rolling codes are separately checked against databases for authenticity. See figure 8.

Therefore it would have bee obvious to one of ordinary skill in the art at the time of the invention to have used the fingerprint and rolling code processing of Fitzgibbon in the fingerprint entry transponder embodiment of Berardi because adding rolling code authentication increases security in the system.

In an analogous art, Johnson shows a communication authentication system that includes fobs for granting account access. See col. 2 lines 15-20. This permits multiple types of transponders to be used to pay for services. Therefore, having a system that operates with the different types of transponders discussed in Fitzgibbon would have been obvious to one of ordinary skill in the art at the time of the invention as suggested by Johnson.

4. Claims 35-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berardi as applied to claim 32 above, and further in view of Fitzgibbon.

In an analogous art, Fitzgibbon teaches an access security system where a transmitter can send codes to a garage door for access authorization. The portable transmitter (authorization module) can additionally include a fingerprint reader to send information regarding the user's fingerprint, also for authorization. Fitzgibbon includes a processor (figure 4) in communication with the transmitters to process data received and make an authorization determination, see figure 8. Fitzgibbon is cited for teaching that in this type of system, the use of rolling codes can improve the security of the system. The fingerprints and rolling codes are separately checked against databases for authenticity. See figure 8.

Therefore it would have bee obvious to one of ordinary skill in the art at the time of the invention to have used the fingerprint and rolling code processing of Fitzgibbon in the fingerprint entry transponder embodiment of Berardi because adding rolling code authentication increases security in the system.

5. Claims 38-41,45-49,53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fitzgibbon (2003/0210131) and Johnson (5890520).

Fitzgibbon teaches an access security system where a transmitter can send codes to a garage door for access authorization. The portable transmitter (authorization module) can additionally include a fingerprint reader to send information regarding the user's fingerprint, also for authorization. Fitzgibbon includes a processor (figure 4) in communication with the transmitters to process data received and make an authorization determination, see figure 8. A gate lock is considered a door lock. Fitzgibbon is cited for teaching that in this type of system, the use of rolling codes can improve the security of the system. See figure 5. Fitzgibbon incorporates by reference US Pat 5949349 and states that the system disclosed can be used to open the gates as described in US Pat 5949349. US Pat 5949349 discuss a plurality of authorization modules associated with a gate to allow entry into the facility See abstract of 5949349. Therefore using Fitzgibbon's authorization in a plural transmitter gate or garage door opening system is taught and shown by Fitzgibbon. Paragraph 52 of Fitzgibbon discusses learning a rolling code and storing in an associated table via an address of

the table, looking up in the code table is considered a shared and indexed mathematical function as claimed.

In an analogous art, Johnson shows a communication authentication system that includes fobs for granting account access. See col. 2 lines 15-20. This permits multiple types of transponders to be used to pay for services. Therefore, having a system that operates with the different types of transponders discussed in Fitzgibbon would have been obvious to one of ordinary skill in the art at the time of the invention as suggested by Johnson.

6. Claims 42-44,50-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fitzgibbon and Johnson as applied to claims 38 and 46 above, and further in view of Berardi.

Berardi shows an access control system including a transponder, which may be embodied in a fob, tag, card, see paragraph 21. The figure 9 transponder sends the fob ID (stored in memory 214) with the fingerprint so both can be authenticated, thereby suggesting a fingerprint fob.

Therefore it would have bee obvious to one of ordinary skill in the art at the time of the invention to have formed the Fitzgibbon controller into a key fob or a card since Berardi suggests these embodiments for an access device and such physical embodiments are recognized in the art as easily portable.

Response to Arguments

Applicant's arguments filed 7/13/07 have been fully considered but they are not persuasive.

Regarding claim 26, the applicant argues that Berardi does not disclose a dual technology reader. Claim 26 does not require a dual technology reader. Claim 26 requires that an RF signal be transmitted from either a first type device or a second type device. As the applicant has pointed out Berardi shows the two types of devices, but he applicant points out that these are different embodiments. Regardless of whether the examiner agrees, the claims require a first type or a second type and therefore even if Berardi's devices are alternatives, the claimed limitation is shown by the reference. Claim 32 also fails to require a dual technology reader. This claim analyzes the incoming signal to determine if it is from a keyfob (first type) or badge (second type) and then processing accordingly.

Additionally regarding claim 26-34 the applicant argues that Berardi does not disclose a reading the code from a badge or the dual authorization of a fingerprint combined with a rolling code. Claims 26-34 do not contain such limitations.

Regarding claims 38-41,45-49 and 53, the applicant argues that Fitzgibbon does not disclose a plurality of authorization modules. These arguments with respect to claims 38-41,45-49 and 53 have been considered but are moot in view of the new ground(s) of rejection.

Regarding claims 1-7,9-16,18-21,23-25,35-37,42-44 and 50-52 the applicant argues that neither Berardi nor Fitzgibbon disclose a reader that is capable of receiving data from both a badge and a keyfob. Claims 1,7 and 14 do not set forth such limitations. The claims do set forth that the transceiver receives a signal from either a badge or a keyfob. Since the two types of devices are claimed in the alternative, only one type needs to be shown in the references. Berardi actually shows both types (even though the applicant argues they are different embodiments) and therefore Berardi does meet the claimed limitation.

Regarding claims 7,9-16,18-21 and 23-25, the applicant argues that neither Berardi nor Fitzgibbon disclose a reader that is capable of receiving data from both a badge and a keyfob. These arguments with respect to claims 7,9-16,18-21 and 23-25 have been considered but are moot in view of the new ground(s) of rejection.

Regarding claims 1-7, 9-16,18-21 and 23-25, the applicant argues that Fitzgibbon is not relevant to the same problem and is therefore not analogous art. The examiner disagrees; the applicant's invention is a security system. Fitzgibbon is directed to a security system, and is therefore analogous. See MPEP 904.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian A. Zimmerman whose telephone number is 571-272-3059. The examiner can normally be reached on 7 am to 4 pm E.S.T.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Wu can be reached on 571-272-2964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Brian A Zimmerman
Primary Examiner
Art Unit 2612

BZ